

HEARING EXAMINER'S
PROPOSED ORDER

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

SOUTH AUSTIN COALITION COMMUNITY:
COUNCIL, NORTHEAST AUSTIN :
ORGANIZATION, NORTHWEST AUSTIN :
COUNCIL, and CONCERNED CITIZENS :
OF WEST GARFIELD :

VS.

86-0046

COMMONWEALTH EDISON COMPANY :

Complaint as to Respondent's :
discontinuance and abandonment :
of its office at 5059 West Polk :
Street, Chicago, Illinois. :

ORDER

By the Commission:

On February 13, 1986, South Austin Coalition Community Council, Northeast Austin Organization, Northwest Austin Council, and Concerned Citizens of West Garfield ("Complainants") filed their verified complaint with the Illinois Commerce Commission ("Commission") against Commonwealth Edison Company ("Respondent") complaining of Respondent's intent to close its office at 5059 West Polk Street, Chicago, Illinois ("Polk Street Office").

On March 14, 1986, Respondent filed a Motion to Dismiss in which it argued that "service" included only those activities, facilities, or apparatus physically involved in the provision of the service for which a utility is certificated; that the decision to consolidate the operations of the Polk Street office with the operations of other offices is a business decision not demanding of Commission review; that the health, safety, and convenience of Respondent's customers will not be adversely affected by a consolidation of the Polk Street office with the other offices; and that the consolidation of the office operations will result in more economical operations which is consistent with directions of the Commission given earlier in other Commonwealth Edison Company dockets.

Pursuant to notice given in accordance with the law and the rules and regulations of the Commission, the matter came on for hearing before a duly authorized Hearing Examiner of the Commission at its Chicago offices on March 17, 1986. Complainants and Respondent were represented by counsel. It was determined that until a response to the Motion to Dismiss had been made by Complainants and the Commission had ruled upon the

CE 003602

HEARING EXAMINER'S
PROPOSED ORDER

86-0046

Motion, no date requests/responses would be entertained by the parties.

Complainant's response to the Motion to Dismiss was filed on April 2, 1986 and argued in part that the closing of the Polk Street will endanger the safety and health of Respondent's customers due to the increased difficulty in obtaining adequate customer service and will subject the customers to the greater possibility of disconnections; that Respondent's failure to seek or obtain Commission approval for the closing of the Polk Street office violates Section 8-508 of The Public Utilities Act ("Act"), which requires Commission approval for abandonment or discontinuance of service; that the closing of the office violates Sections 8-101 and 8-501 of the Act which require utilities to provide such services and facilities as will promote the safety, health, comfort, and convenience of its patrons.

The Commission in conference on May 14, 1986, denied the Motion to Dismiss and also denied the requests for oral argument made by the parties at the March 17 hearing.

Hearings were resumed and testimony and evidence was presented by the parties on May 19, July 13, August 22, and October 2, 1986. The record was marked "Heard and Taken" at the conclusion of the October 2 hearing. Post-hearing briefs were filed by the parties and a request for oral argument renewed by the Complainants was granted. Oral argument before the Commission, en banc, took place on . The Examiner's Proposed Order was served on all parties, and briefs and exceptions, as filed, were considered herein.

Complainants are members of community organizations, namely: South Austin Coalition Community Council, Northeast Austin Organization, Northwest Austin Council, and Concerned Citizens of West Garfield. Membership in the named organizations is approximately 4,000 in the aggregate. Complainants allege that a substantial portion of the population served by the Polk Street office are low or lower-middle income families, minorities, non-English speaking, elderly, or illiterate persons and constitute a community at risk in regard to loss of business and community services.

Respondent operates customer service offices at 5059 West Polk Street, the subject office, 3500 North California Avenue ("Northside office"), 7601 South Lawndale Avenue ("Southside office") and 1319 South First Avenue in Maywood, Illinois. Respondent alleges that the offices other than the Polk Street office are within "relatively easy reach of residents of the area within Chicago Central." Respondent further alleges a significant savings will be accomplished by consolidation of all services at Polk Street with the operations of the Northside and Southside offices.

HEARING EXAMINER'S
PROPOSED ORDER

86-0046

Pursuant to Section 300.650 of the Commission's Rules of Practice, Complainants called four adverse witnesses, the first of whom was Robert J. Manning, Vice-president/Division Operations of Respondent. Mr. Manning testified that the Polk Street office has five departments, namely: the Operating Department - responsible for engineering, maintenance, underground distribution systems, substation operating power supply to the division distribution system, and the records management associated with these activities; the Commercial Area - responsible for all customer service, marketing and metering activity. The Commercial Area's activities include telephone bill payment, credit, bill adjustment, customer contact administration, promotional activities, meter installation and testing activities. The Industrial Relations department manages employee records, the medical department, and the food services area; Division Services oversees transportation, stores, and building service operations; and finally, the Community Affairs department which manages activities with civic groups and governmental organizations.

Through examination, Complainants' introduced a response to a data request later admitted in evidence as Complainants' Exhibit 7, which provided a breakdown of information regarding the number of customers using each of Respondent's facilities for a particular customer service, i.e., light bulb transactions, check stub payments, cash stub payments, and customer interview. This Exhibit revealed that in 1985, there were 323,250 more transactions at the Polk Street office than at the Southside office. Data were gathered from the years 1983 through 1985 and for the first five months of 1986. Usage of the Polk Street office has increased in all of the four categories each year and the total traffic has increased from 524,251 in 1983 to 598,814 in 1985, the last full year for which there are figures. In the first five months of 1986, the total visits had reached 249,212.

Complainants also introduced into evidence as Exhibit 8, a memorandum over the signature of Mr. Manning notifying certain employees of Respondent of their appointment to a Chicago Division Consolidation feasibility task force. The task force's purposes will be discussed in the summarization of Respondent's direct testimony.

Complainants next called William J. Cornack, Division Vice-president/Chicago North Division, formerly Vice-president/Central Division, and now responsible for both offices. A flow chart, entered into evidence as Complainant's Exhibit 9, was developed by the Division Manager of Projects showing the scheduled activities for the completion of construction at the Northside office and the move of the Polk Street office to the Northside office. Moves had been completed to the Northside office as early as April 23, 1986. The

HEARING EXAMINER'S
PROPOSED ORDER

86-0046

Marketing Department had been moved as of April 28 and personnel therein reduced. The Meter and Storage Restoration Department was scheduled for physical transfer on June 23, 1986 and as of the date of Mr. Cormack's testimony, July 10, the scheduled move had taken place. Mr. Cormack testified that the Engineering Department was physically merged within the Northside office on May 3, 1986. Operational analysis was shown to be scheduled for physical merger in mid-1987 but personnel were already interchanged with the Northside office. There was further discussion of interoffice memoranda which indicated that tasks and activities were ongoing with the intent of completing the consolidation process on schedule, that is, early 1987. Upon examination by Respondent's counsel, Mr. Cormack indicated that the portions of the Polk Street office which had been moved had caused no detrimental effect on the services previously provided to the Polk Street office's clientele.

John C. Bukovski, Assistant Corporate Vice-president of Respondent and chair of the task force-feasibility study regarding the closing of the Polk Street office, testified that the purposes of the task force-study are contained in an outline entered into evidence as Complainant's Exhibit 13. Goals and objectives included determination of the performance goals and resources needed over the next five years to provide reliable electric service in Chicago without sacrificing the quality of service provided before closing of the Polk Street office.

Ernest F. Wayman, Commercial Manager at Respondent's Southside office, testified that he was appointed to a task force to study Customers' needs. A customer survey, admitted into evidence as Complainant's Exhibit 15, was conducted at Respondent's offices for five weeks, from May 15, 1986 to June 13, 1986, in order to assess customers' needs and to reassure them that the closing of the Polk Street office would in no way diminish the quality of service now provided.

Closer examination revealed that the survey was taken for parts of two weeks and three full weeks. The tally sheets were incorrectly used and the value of the survey was not immediately made apparent by the testimony. Counsel for Complainants explained that the results indicated that a higher percentage of clients of the Polk Street office used the facility for payment of their bills than did at the other two offices. Further examination of Mr. Wayman revealed that 97.3%, 84.1%, and 72% of the customers visited Respondent's offices for bill payment at the Polk Street, Northside, and Southside offices, respectively. This interpretation of the data was not disputed by Respondent.

Mary Johnson-Volpe, Executive Director of the Northeast Austin Organization, Roberta McCallah, Secretary of the Concerned Citizens of West Garfield, Leola Spann, Acting Director of the

HEARING EXAMINER'S
PROPOSED ORDER

86-0046

Northwest Austin Council, and Robert Vondrasek, Executive Director of the South Austin Coalition Community Council ("SACCC") were next called as witnesses for Complainants. The first three witnesses testified as to the neighborhood boundaries of their respective organizations, the nature of the neighborhoods' constituencies, the purposes of their organizations, and their organizations' interests in this case. All of the groups serve west-side neighborhoods, serve low and lower-middle income residents, and are concerned with the improvement of conditions in their communities with particular emphasis on housing, crime prevention, nutrition, and energy. All of the groups have members who use the Polk Street office.

Mr. Vondrasek testified as to his education and experience as a community organizer and his responsibilities for overall administration of SACCC including planning, coordination, and direction of activities, specifically problems in housing and utilities. Mr. Vondrasek also conducted a survey on use of the Polk Street office. The survey was conducted in front of the Polk Street office entrance on June 24 and 25, 1986, for forty-five minutes each day. The survey indicated that customers now using the Polk Street office would have to travel to the Southside office or the Northside office for service, distances of nine miles and five miles, respectively. Round trip by car would take from 45 to 90 minutes, depending on traffic. Travel on public transportation would require transferring and would take from 90 minutes to two and one-half (2½) hours round trip. Mr. Vondrasek also expressed concern about the safety of travel by predominantly black residents of South Austin into predominantly white areas on the north or south sides. He testified that increased travel time and expense would be a hardship for many of the low-income customers who use the Polk Street office. Mr. Vondrasek considers it likely that there will be increased numbers of disconnections from electrical service if customers are deprived of convenient access to a customer service office where they can personally discuss and negotiate problems with their bills.

Complainants concluded their direct case and subsequently filed a Motion to Strike, a Motion to Compel, and a Motion for Continuance. The Motion for Continuance requested postponement of the presentation of Respondent's direct case on August 22, 1986, due to Respondent's failure to respond in a satisfactory manner to Complainants' Third Data Request. Complainants also filed a Motion to Strike parts of Respondent's prefiled direct testimony as irrelevant to Complainant's assertion that abandonment of the Polk Street office will unjustly jeopardize the safety, health, comfort, and convenience of customers served by the office. Most of Respondent's direct testimony contains assertions about Respondent's austerity program and its attempt to reduce expenses. Complainant's consider this testimony as

HEARING EXAMINER'S
PROPOSED ORDER

86-0046

irrelevant to the issue of whether Respondent sought approval for the abandonment of the Polk Street office and irrelevant to the effect on the safety, health, comfort, and convenience of the customers served by the Polk Street office. In the alternative, Complainants in their Motion to Compel moved for complete answers pertaining to the results of its austerity program and its attempts to reduce expenses. Finally, since these matters were unresolved, Complainants moved for a continuance until such resolution by striking the testimony alleged to be irrelevant or compelling Respondent to respond to the data request. All motions were denied by the Hearing Examiner in the interests of early resolution of the entire case, the stated goal of the parties and this Commission. Hearings continued with the presentation of Respondent's direct case. Complainants declined to seek interlocutory review of the Examiner's rulings.

In Respondent's direct case, Mr. Manning again took the stand and testified about Respondent's austerity program, a program designed to reduce operating and maintenance ("O & M") budgets. Key provisions of the program included zero growth in O & M budgets, no salary increases for upper and middle management, no overtime pay for management personnel, consolidation of division operations where feasible, a hiring freeze for all bargaining unit and management positions, negotiations with labor unions to stimulate more efficient work practices, elimination of all formal conferences, and use of company property for all regular intracompany meetings. The program was established largely as a result of the recognition by both the Commission and Respondent that Respondent's expenses must be reduced.

On cross-examination, Mr. Manning had not relied upon any study or analysis of the percentage of customers in low income neighborhoods who have phones in their homes, though Respondent is operating under the assumption that reductions in face-to-face contact with customers will be replaced by telephonic communications. There was also no study or analysis of the efficacy of the performance of pay agents in their dealings with customers. No comparative study was done of the performance of pay agents as opposed to the tellers in Respondent's offices. Mr. Manning also responded to inquiries about a customer relations survey which was undertaken to determine customer impressions and attitudes of how Respondent performs its services since the customer is the final arbiter and the customer's perception, right or wrong, of how service is provided, is critical.

Respondent's second witness, John C. Bukovski, Assistant Vice-president, testified that he was appointed Chairman of the Task Force to evaluate the feasibility of consolidating division operations in the City of Chicago. The study was performed to determine if division consolidation would contribute to an

HEARING EXAMINER'S
PROPOSED ORDER

86-0046

overall effort by Respondent to reduce expenses and improve operating efficiency. The study showed an average annual savings of \$14.5 million would be realized if the three existing Chicago Divisions were consolidated into two. It was determined that the consolidation would be accomplished over a one and one-half year phase-in period and would require a net capital investment of less than \$5 million. There is sufficient unimproved space at the Northside office to accommodate the increased work force while there is no available space for expansion at the Polk Street office. The task force determined that transactions made by customers in person at the Polk Street office could be made more conveniently by either mail, telephone, or through Respondent's agents. It was not recommended by the task force that the Polk Street office be retained. An informational program would be undertaken for the customers of more convenient ways to transact business with Respondent. Provisions for increased traffic would be made at the other offices.

Consideration was given to closing the Northside office and consolidating the other two. Due to the lack of expandable space at Polk Street, this was impractical. In addition, selection of the South and Northside offices provided better geographical coverage. The work load will be distributed to the Northside and Southside offices in portions of eighty percent (80%) and twenty percent (20%), respectively.

Mr. Bukowski also testified on cross-examination that ten percent (10%) of its customers come in to pay bills while ninety percent (90%) pay through agents or by mail. Information may be acquired by telephone but there was no information from Mr. Bukowski as to the number of people served by the Polk Street office who have telephones. However, Mr. Bukowski stated that the level of quality of service would remain stable, according to the task force study, despite the closing of the Polk Street office.

Complainant's counsel then turned to cross-examination of this witness regarding expense reduction which would be brought about by closing the Polk Street office. Mr. Bukowski testified that all customers, not just residential customers, should feel the effects of a decrease in expenses and expense reduction could forestall the requirement of a rate increase request.

Respondent indicates that the Polk Street office will be sold, leased, or mothballed should it receive Commission approval to close it. Mothballing is the worst case scenario but disposal of the building does not appear to have entered into the calculation of a \$14.5 million saving versus \$5 million for preparation of the North side office.

HEARING EXAMINER'S
PROPOSED ORDER

86-0046

In preparing the South and Northside offices for the increased workload, the task force attempted to quantify the work of the Polk Street office by category. Telephone calls were easily measured, amounting to 2,400 calls per day. Seventy-five percent (75%) of the calls will be allocated to the Northside office and twenty-five percent (25%) to the Southside office. In the area of Credit, which involves field personnel, it was not as easy to quantify customer need. However, it is known that the Polk Street office generates fifty percent (50%) of the field credit work with the North and Southside offices generating twenty-three percent (23%) each. Lobby personnel will decrease by only one person at the Northside office since there will be a redistribution of lobby personnel's workload rather than an elimination of it.

At the final hearing, subsequent to receipt of their prefiled testimony, Respondent cross-examined the two rebuttal witnesses presented by Complainants. The first, Betty L. Williams, Assistant Director of the United Charities of Chicago and Director of its Social Policy Department, testified to her education and experience, both as a social worker and as a witness before various legislative committees. The purpose of the testimony was stated to be the rebuttal of statements and conclusions in the testimony of Messrs. Manning and Bukowski regarding the impact of the closing of the Polk Street office on residents of the area, especially low-income persons who rely upon the services provided by the office. Respondent's views of a stable level of quality of service were viewed as unrealistic by Ms. Williams.

Ms. Williams, using 1980 census data testified that in the area of Chicago bounded by North Avenue, 39th Street, the Chicago River, and the western boundary of Chicago, 39 percent of persons over age 25 had not completed the eighth grade, 31 percent had incomes below the federal poverty level, 10 percent speak little or no English, and seven percent (7%) are age sixty-five (65) or over. It is considered that these persons need convenient access to customer service facilities more than most customers. Low- and fixed-income persons have little flexibility about how or when to spend their limited resources. Elderly customers may be hard of hearing or have difficulty with their eyesight, making telephone conversations frustrating and unproductive. The illiterate may not be able to read their bills or other notices and would be unable to write down instructions or names. Similar problems would be encountered by those not fluent in English or Spanish. Low-income, illiterate, and elderly persons therefore, perceive that they are more likely to negotiate effectively in person than over the telephone and to a large extent, this perception is well-founded. Of course, in order to pay by mail, a customer must have a checking account or pay the required fee to purchase a money order. For special arrangements, service by

HEARING EXAMINER'S
PROPOSED ORDER

86-0046

mail is of no use to the customer. In addition, cars and gas money are not readily available to low-income customers. Bus fare is a drain on sparse pocket money, not to mention the fares necessary for children or child care costs. The elderly and the disabled have difficulty traveling by bus and endure the danger of carrying cash over long distances on a trip that takes approximately two hours roundtrip.

On cross-examination, Ms. Williams had not visited the Polk Street office, but based her testimony on her familiarity with the Westside from previous experiences there. No study had been done as to whether or not public pay phones were typically damaged and whether their use involved some personal danger as testified on direct examination. The languages other than English were surmised to be Polish, Vietnamese, and Spanish, but there is no hard evidence of the percentage of persons unable to transact business in English or Spanish, the languages used by Respondent's personnel. Ms. Williams was confident that police statistics would bear out her testimony about the lack of safety in the subject area.

Complainant's second rebuttal witness, Raymond E. Makul, is a principal of the Mount Auburn Group, a consulting firm primarily concerned with energy issues. Mr. Makul's educational training encompasses engineering, business administration, and law. Mr. Makul had two major criticisms of certain conclusions in the testimony of Messrs. Manning and Bukowski, namely that Respondent identified only one option versus the status quo and that no consideration was given to consumer preferences or to the consequences of closing the Polk Street office. Other options which could and should have been evaluated include consolidation of the three offices into one and separating activities into three bases of operation. Mr. Makul suggested transfer of engineering and operational activities from the Northside office to the Polk Street office or a transfer of marketing from the Polk Street office to the Northside office. There could be consolidation of similar operations without the proposed 50,000 square feet expansion of the Northside office. Any of these suggestions would maintain a corporate presence in an economically disadvantaged area. Mr. Makul also pointed out that provision of several alternatives in situations such as these is a normal business practice.

Mr. Makul further testified that customer service activities should be treated differently because customer service is different from most of the other activities in which Respondent engages. Customers, for example, are unconcerned with the location of base operations for engineering or construction. However, the customer has a direct interest in the manner in which consumer services are provided. Under the present proposal, customers who prefer face-to-face encounters will have

HEARING EXAMINER'S
PROPOSED ORDER

86-0046

to travel. This constitutes a reduction in the level of service. "The customer is always right" is true whether what is "right" is reality or the customer's perception of reality. The witness further stated that in a competitive business, lack of corporate response is self-regulated. Under the circumstances in the instant case, the customer has no choice.

The use of the Polk Street office has increased 14.22% between 1983 and 1985. It is incongruous, states Mr. Makul, to consider closing the Polk Street office in the face of its increased use. Respondent's rationale, if extrapolated, would indicate that all its customer service facilities should be closed in the interest of reduced expenses.

On cross-examination, Mr. Makul stated that most of his testimony has been for state agencies, approximately one-half the cases involved his testimony in the areas of rate design and cost of service. Respondent pointed out that actually there had been consideration of alternative options, namely: closing either the Southside office or the Northside office and maintaining the Polk Street offices' status quo. However, this was deterred by the fact that there are no physical expansion capabilities at the Polk Street office. It was also revealed that the bulk of savings will result from decreases in personnel. No savings will result from possible alternative uses of the vacated Polk Street building.

Mr. Makul had no information or opinion on whether separation of marketing, engineering, and construction would result in greater cost and inconvenience to Respondent's employees and ultimately to Respondent's customers. He pointed out however, that travel would be no more inconvenient for the employees than for Respondent's customers. A discussion of previous closings of offices brought out that for the customer, distances should be measured in travel time, not miles and that population density is a factor to be considered in the provision of customer services. Rural and urban areas cannot be compared in a discussion of the miles between Respondent's business offices and the results of rural office changes are nontransferable to areas with different demographics.

Early on in this case, the issue arose of whether or not a business office is a service as defined by The Public Utilities Act. The Commission maintains its opinion that Respondent's business office is a service and that Complainants are properly concerned by a unilateral decision to withdraw this service from their community. The Commission agrees with the opinion of Complainants' rebuttal witness Makul that Respondent's customers are less likely to be concerned with the locations of industrial relations, division services, community affairs, and operating departments. The Commercial Department, however, which

HEARING EXAMINER'S
PROPOSED ORDER

86-0046

encompasses bill payment, credit, bill adjustment, and customer contact administration is of immediate concern to the customer who uses the business office. Respondent is to be commended if expenses can be reduced by consolidation of certain of those services which do not have an impact on the day-to-day needs of the subject community, but a reduction in the quality of service provided by Respondent to this community is not recommended by this Commission. The Commission interprets Section 3-115 of the Act, which defines "service" in its broadest sense as inclusive of accommodations afforded customers and rejects the limitations placed by Respondent on the definition of "service".

In calculating its savings, Respondent has not taken into account the use of disposal of the building which houses the Polk Street office. There has been only limited discussion of its possible sale, lease, or mothballing. Respondent has also indicated that it does not intend to reduce the quality of the service provided to Complainants. Since the Polk Street office is utilized by its customers and since closure of the office will result in inconvenience to those users, the quality of service will indeed suffer. The closing of the Polk Street office will be to the detriment of persons least able to sustain the loss of personal contact with Respondent. A limited crew provided at the present address or at a proximate location could maintain customer service while allowing Respondent to realize savings by consolidation of other services not perceived as essential as direct contact with Respondent's customer service personnel. The customer services provided at the Polk Street office should be continued and Respondent should not consolidate this part of their operation with the Northside or the Southside office.

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) Commonwealth Edison Company, Respondent herein, is an Illinois corporation engaged in furnishing electric service in the State of Illinois, as it is authorized to do, and is a public utility within the meaning of Section 3-105 of The Illinois Public Utilities Act;
- (2) the Commission has jurisdiction of Respondent and of the subject matter herein;
- (3) Respondent maintains a business office at 5059 West Polk Street, Chicago, Illinois; maintenance of this office is a service as defined by The Public Utilities Act;
- (4) Respondent proposes to discontinue maintenance of the aforementioned Polk Street office;

HEARING EXAMINER'S
PROPOSED ORDER

86-0046

- (5) discontinuance of customer service activities at the Polk Street office will work a hardship on the customers who utilize this office for bill payment, light bulb service, bill adjustment, and Customer-Respondent negotiations;
- (6) alternative locations are inconveniently located for customers presently using the Polk Street office and telephonic and mail services will not meet the needs of customers without telephones or without functional literacy;
- (7) Respondent should consolidate all other activities possible to effect the savings anticipated but should maintain personnel at the Polk Street office or at a proximate location to assure that there is no lessening of the quality of service provided to customers now using the Polk Street office.

IT IS THEREFORE ORDERED that Commonwealth Edison Company be, and the same is hereby, directed to maintain customer service activities at the Polk Street office or in the alternative, maintain customer service activities at a location proximate to the Polk Street office.

By Order of the Commission this day of
1987.

(SIGNED) MARY B. BUSHNELL

Chairman

(S E A L)